



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

TJR
Docket No: 3290-00
23 October 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 17 October 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Marine Corps on 7 December 1966 at the age of 18. Your record reflects that you served for a year and three months without incident. However, on 25 March 1968 you received nonjudicial punishment (NJP) for failure to obey a lawful order and were awarded restriction for seven days. On 22 April 1968 you received NJP for two periods of absence from your appointed place of duty. The punishment imposed was reduction to paygrade E-3 and restriction for 15 days. Shortly thereafter, on 2 May 1968, you received NJP for making a false official statement and breaking restriction. The punishment imposed was reduction to paygrade E-2 and correctional custody for 20 days. On 11 July 1968 you were convicted by summary court-martial (SCM) of a 33 day period of unauthorized absence (UA). You were sentenced to confinement hard labor for a months, reduction to paygrade E-1, and a \$60 forfeiture of pay.

On 17 January 1969 you were convicted by SCM of absence from your appointed place of duty and resisting arrest. You were sentenced to confinement at hard labor for a month and a \$97 forfeiture of pay. On 21 August 1969 you were convicted by general court-

martial (GCM) of escaping confinement, resisting arrest, two incidents of robbery, four incidents of assault, and the wrongful and willful discharging of a firearm. You were sentenced to reduction to paygrade E-1, forfeiture of all pay, confinement at hard labor for nine years, and a dishonorable discharge (DD).

Your record further reflects that on 13 May 1970, while in confinement, you submitted a written request for restoration to duty. Your request noted, in part, that you wanted to go back to duty and work for an honorable discharge to prepare yourself for life outside the military. You further noted that any discharge other than an honorable discharge, would hurt you and your wife and son. However, this request was subsequently denied and on 19 November 1970, you were convicted by special court-martial (SPCM) of absence from your appointed place of duty and escaping custody. You were sentenced to confinement at hard labor for six months.

On 2 March and again on 11 June 1971 you were convicted by SPCM of three incidents of assault and breach of peace. On 28 October 1971 you submitted a written request for immediate execution of the DD. Your request noted, in part, as follows:

I hereby waive my right to a clemency and parole board. I do not wish to appear before a board for I do not wish to delay by transfer in any possible way. Also I am very cynical about all boards I may receive here after this command.

Subsequently, the DD was approved at all levels of review and ordered executed. On 7 December 1971 you received a DD.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, record of medals/awards and citations, and the letter from the Disabled American Veterans requesting clemency in regard to your case. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the serious nature of your frequent misconduct, which resulted in three NJPs and six court-martial convictions. Also, the Board noted that your misconduct continued even while you were in confinement. Given all the circumstances of your case, the Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the

Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director